

PAULA T. DOW
ATTORNEY GENERAL OF NEW JERSEY
Division of Law
124 Halsey Street
P.O. Box 45029
Newark, New Jersey 07101

FILED

March 10, 2011

**NEW JERSEY STATE BOARD
OF MEDICAL EXAMINERS**

By: David M. Puteska
Deputy Attorney General
Tel. (973) 648-2972

STATE OF NEW JERSEY
DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF MEDICAL EXAMINERS

IN THE MATTER OF THE SUSPENSION
OR REVOCATION OF THE LICENSE OF

**FAROUK AL-SALIHI, M.D.
LICENSE NO. 25MA022618**

TO PRACTICE MEDICINE AND SURGERY
IN THE STATE OF NEW JERSEY

Administrative Action

CONSENT ORDER

This matter was opened to the State Board of Medical Examiners (the "Board") upon receipt of information that the medical office owned and operated by Farouk Al-Salihi, M.D. ("respondent"), located at 1810 Kennedy Boulevard, Jersey City, New Jersey was operating in an unsanitary and unsafe manner. The Board also received information regarding respondent's care, treatment and prescribing for patient C.E.N.

Respondent previously entered into two Consent Orders with the Board. The first Consent Order, filed on February 9, 1999, was based upon an indictment for reckless disposal of regulated medical waste, as well as concerns about sanitary conditions in respondent's office and his care of pediatric patients. Respondent was ordered to submit to an evaluation and monitoring of his practice,

CERTIFIED TRUE COPY

attend a mini-residency course and pay civil penalties and investigative costs.

The second Consent Order, filed on December 28, 2007 was based upon respondent's guilty plea in a state criminal action charging him with fourth-degree falsification of patient records. The underlying facts of the criminal case involved a covert visit to respondent's office wherein respondent wrote a report stating that he treated the patient four times, although the patient had only visited his office on two occasions. Pursuant to the Consent Order, respondent's license to practice was suspended for one year, with the entirety of the suspension stayed. Respondent was also required to complete an ethics course, a record keeping course, and pay civil penalties and costs. Respondent was granted an unrestricted license on February 24, 2009.

On March 24, 2010, respondent again appeared before a Committee of the Board, with counsel, Richard West, Esq. to discuss the sanitary conditions in his office and his treatment of patient C.E.N. Respondent admitted that due to the volume of patients, his office became messy and cluttered, that the office floors had been stained, that he had expired medications in his office which had been given to him by patients for disposal and that there had been exposed wires in his waiting room. He maintained that during March 2010 he took steps to clean up the office, including cleaning, painting the office and regularly checking the bathroom.

Respondent testified that on April 21, 2009 he treated patient C.E.N. who complained of abdominal pain. Respondent testified that he performed a full examination of C.E.N. and wrote two prescriptions for Levsin and Mylanta II, but denied writing a third prescription for C.E.N. for Ultram. However, upon being shown a third prescription for C.E.N. on his prescription pad, respondent testified that he wrote the third prescription for the patient's husband, M.E.N., who he claimed was his good friend. Respondent testified that the prescription was for the husband's bad toothache and

that he inadvertently wrote the prescription for patient C.E.N. Patient C.E.N. had listed her husband's name as Raj and that her home address was in Jersey City. Respondent then produced a patient chart for M.E.N. The male patient's first name was listed as Magdy with the same last name as patient C.E.N. The chart listed a home address in Bayonne. However, patient C.E.N. was an investigator of the Division of Consumer Affairs who visited Respondent's office in a covert capacity and did not request medication for anyone other than herself.

On December 9, 2010, the Attorney General filed an Administrative Complaint alleging various violations of the rules and regulations governing the practice of medicine in the State of New Jersey. Prior to filing his Answer, Respondent has agreed to resolve this matter by entry of the within Consent Order.

Having reviewed the entire record, the Board finds that respondent has failed to maintain his office in a safe and sanitary condition; submitted a falsified medical record for patient M.E.N.; and testified dishonestly before a Committee of the Board regarding writing a prescription in the name of one patient intended for another patient. These facts establish a basis for disciplinary action, pursuant to N.J.S.A. 45:1-21(b) and (e) in that respondent has engaged in the employment of dishonesty, fraud, deception, misrepresentation, false promise or false pretense and professional misconduct.

It appearing that respondent desires to resolve this matter without recourse to formal proceedings, that the within disposition is adequately protective of the public health, safety, and welfare, and for good cause shown:

IT IS on this 10 day of March, 2011

ORDERED AND AGREED that:

1. Respondent, Farouk Al-Salihi, M.D., is hereby reprimanded for failing to maintain his office in a safe and sanitary condition, for falsifying a medical record by including a progress note indicating an examination when an examination had not been performed and for testifying dishonestly before a Committee of the Board, in violation of N.J.S.A. 45:1-21(b) and (e).

2. Respondent's license to practice medicine and surgery in the State of New Jersey shall be suspended for a period of two years effective upon entry of the within Consent Order. Six (6) months of the suspension shall be active and Respondent shall cease and desist the practice of medicine and surgery on May 1, 2011. The remaining one year and six months shall be stayed and served as a period of probation, provided that respondent demonstrates compliance with all the terms and conditions of the within Consent Order. No credit shall be granted toward the active period of suspension required prior to an application for reinstatement for any period during which respondent is practicing any type of medicine and/or surgery in any other jurisdiction or country.

3. During the period of active suspension, respondent shall re-take, and successfully complete, at his own expense, a physicians' ethics course pre-approved by the Board and a medical record keeping course pre-approved by the Board. Successful completion means that all sessions are fully attended, all assignments satisfactorily completed, and a passing grade achieved which was unconditional and without reservation.

4. During the period of active suspension, respondent shall take and successfully complete, at his own expense, an infection control course pre-approved by the Board. Successful completion means that all sessions are attended, all assignments satisfactorily completed, and a passing grade achieved which is unconditional and without reservation.

5. Prior to reinstatement of his license, shall appear before a Committee of the Board,

if requested by the Board, and respondent shall submit documentation demonstrating that he has complied with each term of this Order. The documentation shall include a certification stating that he has not practiced medicine and surgery in any jurisdiction during the period of active suspension. Respondent shall also provide documentation that there are appropriate changing gowns in his office and that he will offer patients changing gowns before examining them.

6. During the period of probation, the Board may, at its discretion, take any and all steps to monitor respondent's office, including, but not limited to unannounced, random inspections to assure compliance with the Consent Order. Respondent shall cooperate with any monitoring or inspections and shall bear the cost of same.

7. Respondent is assessed an aggregate civil penalty of \$5,000 pursuant to N.J.S.A.
45:1-25 for the violations described herein.

8. Respondent shall reimburse the Board's litigation and investigation costs and fees totaling \$7,000 pursuant to N.J.S.A. 45:1-25(d).

9. Respondent shall be permitted to pay the total monetary amount due under this Consent Order, \$12,000, in monthly installments as follows: April 1, 2011 thru and including September 1, 2011, \$250 per month; October 1, 2011 thru and including June 1, 2013, \$500 per month. Interest on all financial assessments shall accrue in accordance with Rule of Court 4:42-11. All payments shall be made by certified check or money order payable to the Treasurer, State of New Jersey and forwarded to William Roeder, Executive Director, New Jersey State Board of Medical Examiners, 140 East Front Street, P.O. Box 183, Trenton, New Jersey 08625-0183. In the event that a monthly payment is not received within five days of its due date, the entire balance of the civil penalty and costs shall become due and owing. The Board reserves the right to file a

the civil penalty and costs shall become due and owing. The Board reserves the right to file a Certificate of Debt and such other proceedings as provided by law.

9. Respondent shall comply with the Directives Applicable to Board Licensees who have been Disciplined or Whose Surrender of Licensure Has Been Accepted, which are attached hereto as Exhibit A and are incorporated herein by reference.

NEW JERSEY STATE BOARD OF
MEDICAL EXAMINERS

By: 

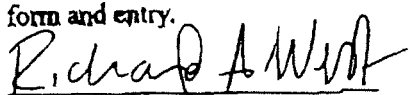
Paul T. Jordan, M.D., President

I have read and understood
the within Consent Order
and agree to be bound
by its terms.


Farouk Al-Salih, M.D.

Dated: 3-2-11

Consented to as to
form and entry.



Richard A. West, Esq.
Attorney for Respondent

Dated: 3-3-11

EXHIBIT A**DIRECTIVES APPLICABLE TO ANY MEDICAL BOARD LICENSEE
WHO IS DISCIPLINED OR WHOSE SURRENDER OF LICENSE
HAS BEEN ACCEPTED****APPROVED BY THE BOARD ON MAY 10, 2000**

All licensees who are the subject of a disciplinary order of the Board are required to provide the information required on the Addendum to these Directives. The information provided will be maintained separately and will not be part of the public document filed with the Board. Failure to provide the information required may result in further disciplinary action for failing to cooperate with the Board, as required by N.J.A.C. 13:45C-1 et seq. Paragraphs 1 through 4 below shall apply when a license is suspended or revoked or permanently surrendered, with or without prejudice. Paragraph 5 applies to licensees who are the subject of an order which, while permitting continued practice, contains a probation or monitoring requirement.

1. Document Return and Agency Notification

The licensee shall promptly forward to the Board office at Post Office Box 183, 140 East Front Street, 2nd floor, Trenton, New Jersey 08625-0183, the original license, current biennial registration and, if applicable, the original CDS registration. In addition, if the licensee holds a Drug Enforcement Agency (DEA) registration, he or she shall promptly advise the DEA of the licensure action. (With respect to suspensions of a finite term, at the conclusion of the term, the licensee may contact the Board office for the return of the documents previously surrendered to the Board. In addition, at the conclusion of the term, the licensee should contact the DEA to advise of the resumption of practice and to ascertain the impact of that change upon his/her DEA registration.)

2. Practice Cessation

The licensee shall cease and desist from engaging in the practice of medicine in this State. This prohibition not only bars a licensee from rendering professional services, but also from providing an opinion as to professional practice or its application, or representing him/herself as being eligible to practice. (Although the licensee need not affirmatively advise patients or others of the revocation, suspension or surrender, the licensee must truthfully disclose his/her licensure status in response to inquiry.) The disciplined licensee is also prohibited from occupying, sharing or using office space in which another licensee provides health care services. The disciplined licensee may contract for, accept payment from another licensee for or rent at fair market value office premises and/or equipment. In no case may the disciplined licensee authorize, allow or condone the use of his/her provider number by any health care practice or any other licensee or health care provider. (In situations where the licensee has been suspended for less than one year, the licensee

may accept payment from another professional who is using his/her office during the period that the licensee is suspended, for the payment of salaries for office staff employed at the time of the Board action.) A licensee whose license has been revoked, suspended for one (1) year or more or permanently surrendered must remove signs and take affirmative action to stop advertisements by which his/her eligibility to practice is represented. The licensee must also take steps to remove his/her name from professional listings, telephone directories, professional stationery, or billings. If the licensee's name is utilized in a group practice title, it shall be deleted. Prescription pads bearing the licensee's name shall be destroyed. A destruction report form obtained from the Office of Drug Control (973-504-6558) must be filed. If no other licensee is providing services at the location, all medications must be removed and returned to the manufacturer, if possible, destroyed or safeguarded. (In situations where a license has been suspended for less than one year, prescription pads and medications need not be destroyed but must be secured in a locked place for safekeeping.)

3. Practice Income Prohibitions/Divestiture of Equity Interest In Professional Service Corporations and Limited Liability Companies

A licensee shall not charge, receive or share in any fee for professional services rendered by him/herself or others while barred from engaging in the professional practice. The licensee may be compensated for the reasonable value of services lawfully rendered and disbursements incurred on a patient's behalf prior to the effective date of the Board action.

A licensee who is a shareholder in a professional service corporation organized to engage in the professional practice, whose license is revoked, surrendered or suspended for a term of one (1) year or more shall be deemed to be disqualified from the practice within the meaning of the Professional Service Corporation Act. (N.J.S.A. 14A:17-11). A disqualified licensee shall divest him/herself of all financial interest in the professional service corporation pursuant to N.J.S.A. 14A:17-13(c). A licensee who is a member of a limited liability company organized pursuant to N.J.S.A. 42:1-44, shall divest him/herself of all financial interest. Such divestiture shall occur within 90 days following the entry of the Order rendering the licensee disqualified to participate in the applicable form of ownership. Upon divestiture, a licensee shall forward to the Board a copy of documentation forwarded to the Secretary of State, Commercial Reporting Division, demonstrating that the interest has been terminated. If the licensee is the sole shareholder in a professional service corporation, the corporation must be dissolved within 90 days of the licensee's disqualification.

4. Medical Records

If, as a result of the Board's action, a practice is closed or transferred to another location, the licensee shall ensure that during the three (3) month period following the effective date of the disciplinary order, a message will be delivered to patients calling the

former office premises, advising where records may be obtained. The message should inform patients of the names and telephone numbers of the licensee (or his/her attorney) assuming custody of the records. The same information shall also be disseminated by means of a notice to be published at least once per month for three (3) months in a newspaper of general circulation in the geographic vicinity in which the practice was conducted. At the end of the three month period, the licensee shall file with the Board the name and telephone number of the contact person who will have access to medical records of former patients. Any change in that individual or his/her telephone number shall be promptly reported to the Board. When a patient or his/her representative requests a copy of his/her medical record or asks that record be forwarded to another health care provider, the licensee shall promptly provide the record without charge to the patient.

5. Probation/Monitoring Conditions

With respect to any licensee who is the subject of any Order imposing a probation or monitoring requirement or a stay of an active suspension, in whole or in part, which is conditioned upon compliance with a probation or monitoring requirement, the licensee shall fully cooperate with the Board and its designated representatives, including the Enforcement Bureau of the Division of Consumer Affairs, in ongoing monitoring of the licensee's status and practice. Such monitoring shall be at the expense of the disciplined practitioner.

(a) Monitoring of practice conditions may include, but is not limited to, inspection of the professional premises and equipment, and inspection and copying of patient records (confidentiality of patient identity shall be protected by the Board) to verify compliance with the Board Order and accepted standards of practice.

(b) Monitoring of status conditions for an impaired practitioner may include, but is not limited to, practitioner cooperation in providing releases permitting unrestricted access to records and other information to the extent permitted by law from any treatment facility, other treating practitioner, support group or other individual/facility involved in the education, treatment, monitoring or oversight of the practitioner, or maintained by a rehabilitation program for impaired practitioners. If bodily substance monitoring has been ordered, the practitioner shall fully cooperate by responding to a demand for breath, blood, urine or other sample in a timely manner and providing the designated sample.

**NOTICE OF REPORTING PRACTICES OF BOARD
REGARDING DISCIPLINARY ACTIONS**

Pursuant to N.J.S.A. 52:14B-3(3), all orders of the New Jersey State Board of Medical Examiners are available for public inspection. Should any inquiry be made concerning the status of a licensee, the inquirer will be informed of the existence of the order and a copy will be provided if requested. All evidentiary hearings, proceedings on motions or other applications which are conducted as public hearings and the record, including the transcript and documents marked in evidence, are available for public inspection, upon request.

Pursuant to 45 CFR Subtitle A 60.8, the Board is obligated to report to the National Practitioners Data Bank any action relating to a physician which is based on reasons relating to professional competence or professional conduct:

- (1) Which revokes or suspends (or otherwise restricts) a license,
- (2) Which censures, reprimands or places on probation,
- (3) Under which a license is surrendered.

Pursuant to 45 CFR Section 61.7, the Board is obligated to report to the Healthcare Integrity and Protection (HIP) Data Bank, any formal or official actions, such as revocation or suspension of a license (and the length of any such suspension), reprimand, censure or probation or any other loss of license or the right to apply for, or renew, a license of the provider, supplier, or practitioner, whether by operation of law, voluntary surrender, non-renewability, or otherwise, or any other negative action or finding by such Federal or State agency that is publicly available information.

Pursuant to N.J.S.A. 45:9-19.13, if the Board refuses to issue, suspends, revokes or otherwise places conditions on a license or permit, it is obligated to notify each licensed health care facility and health maintenance organization with which a licensee is affiliated and every other board licensee in this state with whom he or she is directly associated in private medical practice.

In accordance with an agreement with the Federation of State Medical Boards of the United States, a list of all disciplinary orders are provided to that organization on a monthly basis.

Within the month following entry of an order, a summary of the order will appear on the public agenda for the next monthly Board meeting and is forwarded to those members of the public requesting a copy. In addition, the same summary will appear in the minutes of that Board meeting, which are also made available to those requesting a copy.

Within the month following entry of an order, a summary of the order will appear in a Monthly Disciplinary Action Listing which is made available to those members of the public requesting a copy.

On a periodic basis the Board disseminates to its licensees a newsletter which includes a brief description of all of the orders entered by the Board.

From time to time, the Press Office of the Division of Consumer Affairs may issue releases including the summaries of the content of public orders.

Nothing herein is intended in any way to limit the Board, the Division or the Attorney General from disclosing any public document.